19

Department of [illegible]

OFFICE Office Dean

STATION Madras

Dr. No. 1461

Dated 26/5/38

Today

(SUBJECT.)

Funds Dellors Dellors Dr M—H

638/3; K Veeraperumal Pe

E.C.Wood Esq., I.C.S.,

Collector, Bellary.

The Secretary to the Board of Revenue,

Madras.

Ref. No. 5838/37 A-1 dated 6th March 1938.

Sir,

Suits - (Bellary) - District Munsif's Court, Bellary O.S. No. 638/37 - Plaintiff - Hampanagowd - Defendant Collector of Bellary - further instructions.

Ref: B.P. Mis. 627 dated 25-2-1938.

The Government Pleader, Bellary is of opinion that the above suit has to be contested as he says that the issue framed by the Civil Court on a point of law may be decided against the Government if it is not defended by Government. I request further instructions in the matter.

7-3-38.

For Collector.

DRAFT FOR APPROVAL. M, J 22

	Date.	Initials.
When received for fair copying	22/3	BP
When copied		
When examined	22/3	
When signed		
When despatched.		

DESPATCHED
22 MAR 1938

SUBJECT:— Suits - Bellary - Bellary dmc. 0563 8/37

READ AGAIN _____, dated _____ 19____.

" " _____ " _____ 19____.

READ *ALSO*:-

A No. 1109 From the Coll. of Bellary No. 5838, dated 19 6. 3. 38

" _____ " _____ " 37-A-1 " _____ 19____.

" _____ " _____ " _____ " _____ 19____.

Order / Resolution Ms. / Rout. No. _____, dated Reply to 1109/38-1 d 22/3/19 38.

The Coll. is requested to report what the issue framed by the Court is & why the local Govt. thinks that it may be decided agst. the Govt if it is not defended by them, ~~and why the cost should be deposited when the Govt is between two private parties~~ If the Coll. thinks that the suit should be defended on behalf of the Govt. he is

requested to submit
for the approval of the
Board a draft of the revised
written statement to
be filed in Ca

KL
22336.

AL
22338

To the Clks. of Bellary

5

Revenue DEPARTMENT.

A2482

11/09/38

In reply, please quote number, date and short title.*

Received ____ *Registered* ____

From (Name) J.W. Pritchard Esq., I.C.S.,

(Designation) Collector,

Post Box ____, (Station) Bellary,

Telegraphic Address ____

BOARD OF REVENUE 6 - MAY 1938 MADRAS

To

The Secretary to the Board of Revenue, Madras.

Ref.A1. *No.* 5835/37., *dated* 4-5-1938 19 .

Sir,

* Suits - Bellary - Bellary District - Munsif's Court - O.S.No. 638/37 - further information.

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Ref.- Board's Ref.A. 1109/38-1, dated 22-3-38.

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Enclosures ____

____

____

Spare Copies ____

M 3-4 ef

The following issue was framed by the Civil Court in the above suit on a point of law:-

"Is the suit not maintainable under section 21 of Act III of 1895".

The Government Pleader is of opinion that the Government has, in fact, contested the suit by raising the legal issue, and it is therefore desirable to continue the contest. It is not likely that the suit would be decided against Government, but it is possible, in which case Government might be held liable for costs. I also consider it desirable that Government should contest on the legal issue as to whether civil courts have any jurisdiction in such cases. Plaintiff appears to contend that, if a decision in such a case is erroneous in law, it is ultra vires and civil courts will accordingly have jurisdiction. This is an obviously wrong view, through a misconception of the meaning of "ultra vires," but it might be upheld by the Courts, and such a decision would be very embarrassing to Government.

3. I do not consider that any revised statement is necessary, as it is only on a point of law that

it is necessary for Government to contest. The suit was adjourned to 2nd June 1938, and I request instructions whether the suit may be contested.

for Collector.

JR./4-5.

M2 : CAH

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ..	26/5	
When copied ..	26/5	
When examined ..	26/5	
When signed ..		
When despatched.		

SUBJECT :— Suits (Bellary) – Bellary Dt Munsiff – Ohio 638/37 K. Veerapuram Village – Headman's office – Defence ~~Revision orders~~ ~~in Stamps~~ papers

READ AGAIN ——————, dated ——————

" " ——————, " ——————

READ *ALSO* :—

No. ——— From the ——————— No. ———, dated ——— 19 ———.

A 1109/38 " Coll of Bellary " 58 38/37 " d 6/3/38 / 1 cyd

~~A 2482/38~~ " —do— " —do— " 4/5/38 / 5-6 cyd

~~Order~~ Ms. Resolution ~~Rout.~~ No. 1461, dated 26-5 19 38.

The Board does not see ~~any~~ sufficient reason to reconsider the orders passed in RP Mis 627 dated 25/2/38

AK 26/5/38

Issue

25/5
AK
26/5/38

Note

Suits — (Bellary) — Bellary

Dr Mensiff — Ofno 638/37

K. Veerapuram Village

Headman's fee Defence

sanctioned — further instruction

1109/38 from the Coll of

Bellary SR38/37 A1 dated 6/3/38

pl cf

To AS

Please see the Colls letter

at pl cf

2/. In Ref his 627 dated

23/2/38, the Board instructed

the Coll not to contest the

suit on the ground that

the fight for the office is

between two private parties

and directed that a written

statement might be filed to

the effect that section 21 of

Act III of 1895 bars the jurisdiction

of civil Courts, that the Govt

will abide by the Courts decision

and that they may be

exonerated from costs. The

Coll now reports that the

Local Govt is of the opinion

that the suit has to be

contested because the issue framed by the Court on a point of law may be decided against the Govt if the suit is not defended. The Coll has not reported what the issue framed by the Court is and how it may be decided against the Govt or why the suit should be defended when the fight is between two private parties

The Coll may be asked to furnish the above information

Draft submitted

WEA 21/3

12.3.38

J.S. (A)

Issued as Board's Ref A1109/38-1 dated 22/3/38 pp 3-4 cf from the Coll of Bellary. pp 5-6 cf

Hearing 2-6-38

To AS (LR)

previous noted at p

Please see the Board's reference at pp 3-4 cf, and the Coll's reply at pp 5-6 cf.

The facts of the case are given in the Collector's letter at pp 1-2 of of BP Mis 627 dated 25/2/38, in which the Board passed orders regarding the defence of the suit. In his letter at pp 5-6 of the Coll explains his reasons for the view that the suit should be defended, and requests orders, whether it may be Contested

Reference is invited to the precedents in BP Mis 676 dated 2/3/38, and Mis 1197 dated 27/4/38. In these BPs, the Board held the view that as the fight for the office was between two private parties the Govt need not Contest the suits on merits and approved the written statements to the effect that Civil Courts have no jurisdiction under section 21 of Act III of 1895, that the Govt will abide by the Court's decision, and that

Costs. In the present case also the Board passed the same orders in BP Mis 627 dated 25/2/38

Reference is also invited to the High Court judgment in BP Mis 73 / dated 7/3/38 Justices Pandrang Row and King held that Civil Courts have no jurisdiction in Village officers appeals. They state "that the order of the Board of Revenue has the force of a decree and it is the decree of the final Court of appeal in a suit of this kind

In the circumstance the Board's order in BP Mis 627 dated 25/2/38 may stand and the Coll may be informed accordingly

hc
18/5
KK
20/5/38

KK
3508

IT 2

To AS(CR)

Drafts submitted

AM
26/5/20

tw
28/5
RM
26/5/20

CIRCULATION CHECK SLIP.

Bill No. Mis 1461

Dated 26/5/38

Single Member

~~Two Members~~

~~Full Board.~~

I.A.	A.D.S-L.	A.S. L.R.,	A.S. Sett.,	A.S. Sep. Rev.,	J.S. Secy.	W.S.
		✓				
			✓			

(1) For files

(2) For Agency

3) For circulated

Initials.

KG 31/5/38

Passed for record.

Secretary / Joint Secretary

A.S.(Sett) for A.S. (I.A.) 1/6/38

A.S. (Sett.) 30/5

A.S. (Sep. Rev.)

I.A.S.